



C.R.P.(MD).No.1387 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD)No.1387 of 2019

and

C.M.P(MD) No.7390 of 2019

S.Rajagopal

... Petitioner/Respondent/
Defendant

-vs-

M.Asaithambi

... Respondent/Petitioner/
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 05.07.2018 passed in I.A.No.39 of 2018 in O.S.No.180 of 2015 on the file of the District Munsif Court, Tiruchendur.

For Petitioner : Mr.M.C.Swamy

For Respondent : Mr.S.R.Anbarasu

ORDER

The present Civil Revision Petition has been filed by the petitioner under Article 227 of the Constitution of India, against the fair and decreetal



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order dated 05.07.2018 passed in I.A.No.39 of 2018 in O.S.No.180 of 2015 on the file of the District Munsif Court, Tiruchendur.

2. The petitioner herein is the defendant and the respondent herein is the plaintiff before the Court below.

3. The learned counsel appearing for the respondent would submit that the plaintiff has filed the suit for the relief of declaration and recovery of possession.

4. The learned counsel appearing for the petitioner would submit that after the physical inspection made by the Advocate Commissioner, the plaintiff has moved an application for an amendment and sought for six items of amendment.

5. It appears from the records that the Court below has allowed the application on payment of cost. The learned counsel for the petitioner has fairly submits that he has no serious objection in respect of the amendment mentioned in Serial Nos.1, 2, 3 and 5 and has put forth the objection only in



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respect of schedule of amendment in serial Nos.4 and 6. The learned counsel for the petitioner would further submit that by way of amendment in Paragraph No.5 of the plaint, when they themselves admitted that S.F.No. 133/2A11 belongs to the defendant, now that by way of amendment trying to withdraw the said admission.

6. The learned counsel for the petitioner would also invite the attention of this Court in respect of schedule of amendment in serial No.6 which is more or less connected to serial No.4. Here also, the petitioner wanted to remove the S.F.No.133/2A1. The main objection raised by the learned counsel for the petitioner is that, by way of an amendment the parties cannot be permitted for withdrawal of admission. This Court is in full agreement with submission made by the learned counsel for the petitioner.

7. Though the learned counsel for the respondent would submit that this is only pre-trial amendment and the petitioner can have remedy during the cross examination, this Court is not persuaded with the submission of the learned counsel for the respondent.



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8. Therefore, this Civil Revision Petition is **allowed in part**, in respect of schedule of amendment in Serial Nos. 4 and 6 and thereby the order in I.A.No.39 of 2018 is partly allowed by setting aside the order to the extent of permitting amendment in Serial Nos. 4 and 6. In respect of other amendment in Serial Nos.1, 2, 3 and 5, in the Civil Revision Petition is dismissed confirming the trial Court order to the extent of amendment in Serial Nos.1, 2 3 and 5. Considering the pendency of the suit since 2015, the Court below is directed to dispose of the suit in O.S.No.180 of 2015 as expeditiously as possible, preferably within a period of six months from the date of receipt of the copy of this order. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

19.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The District Munsif Court,
Tiruchendur.



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C.KUMARAPPAN,J.

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